

PT 00-7

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

**HABITAT FOR HUMANITY
OF SANGAMON COUNTY**

Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

) **A.H. Docket #**

99-PT-0003

)

) **Docket #**

Please see attachment

) **Parcel Index #**

Please see attachment

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Barbara S. Rowe

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Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: LeGrand L. Malany, Attorney at Law, for Habitat for Humanity.

Synopsis:

The hearing in this matter was held in Springfield, Illinois on May 3, 1999, to determine whether or not Sangamon County Parcel Index Nos. 22-02.0-305-015, 22-02.0-305-014, 14-27.0-177-046, 14-26.0-301-013, 22-02.0-257-017, 22-02.0-257-018, 22-02.0-257-019, 22-02.0-257-020, 22-02.0-257-026, and 14-27.0-254-020 qualified for exemption during the 1998 assessment year.

Jan Sorenson, 1997 president and current past president of Habitat for Humanity of Sangamon County (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant was the owner of these parcels during the 1998 assessment year; secondly, whether the applicant is a charitable

organization; and lastly, whether these parcels were used by the applicant for charitable purposes during the 1998 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned these parcels during all of the 1998 assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant did not use the vacant parcels for exempt purposes during the 1998 assessment year. Regarding Parcel Index No. 14-27.0-177-046, it is determined that the applicant has established that it was used for exempt purposes for 65% of the 1998 assessment year. It is therefore recommended that Sangamon County Parcel Index Nos. 22-02.0-305-015, 22-02.0-305-014, 14-26.0-301-013, 22-02.0-257-017, 22-02.0-257-018, 22-02.0-257-019, 22-02.0-257-020, 22-02.0-257-026, and 14-27.0-254-020 remain on the tax rolls for 1998 and be assessed to the applicant the owner thereof. It is also recommended that Parcel Index No. 14-27.0-177-046 be exempt for 65% of the 1998 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that Sangamon County Parcel Index Nos. 22-02.0-305-015, 22-02.0-305-014, 14-26.0-301-013, 22-02.0-257-017, 22-02.0-257-018, 22-02.0-257-019, 22-02.0-257-020, 22-02.0-257-026, 14-27.0-254-020 and 44% of Parcel Index No. 14-27.0-177-046 did not qualify for a property tax exemption for the 1998 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 14. (Tr. p. 14)

2. The applicant was incorporated under the General Not for Profit Corporation Act of the State of Illinois on May 22, 1989. The mission of the applicant is:

to eliminate poverty housing by building simple, decent, affordable housing for working families in need. To be eligible to receive a Habitat home, the Habitat family must have a family income of between 35 and 65% of the median family income for the City of Springfield as established by the U.S. Department of Housing and Urban Development. Habitat homes are built through the use of donated funds, donated materials, and volunteer labor. Where labor and materials must be purchased, they are purchased with funds raised by Habitat for Humanity through donations. Once a home is built, it is deeded to the homeowner at our cost of construction. Habitat finances a

Habitat family home by a zero interest mortgage. We are currently building five to six homes per year. Although we generally have been building new homes, we do purchase or get donated older homes which we remodel. The Habitat program is the same for new construction as it is for remodeling. (Dept. Ex. No. 2)

3. The applicant acquires real estate to be used in its Habitat home building program. The applicant obtains real estate through purchases, gifts, and donations. Some are received from the city of Springfield through various economic development programs. The real estate that the applicant purchases is usually vacant lots, which can be utilized as home building lots. The applicant never knows exactly when a property will be needed. The applicant holds parcels in inventory until one of its families is approved for home construction. In order to qualify for approval a family needs 250 sweat equity hours for each adult in the family. Once approved, the family chooses a lot for its new home. Volunteers of the applicant begin construction on the home. Once the home is completed, the Habitat family moves in. The house is then deeded to the Habitat family at no interest and at the applicant's cost. The deeding process takes additional time. From the time the applicant receives a piece of property until it is disposed of may be as long as four years. (Dept. Ex. No. 2; Tr. pp. 22, 26-28)

4. The Habitat family finds the applicant either through word of mouth or through the applicant's advertising and family orientation programs. (Tr. p. 22)

5. The bylaws of the applicant state that:

Habitat for Humanity - Sangamon County shall seek to sponsor specific projects in habitat development in Sangamon County, Illinois, starting with the construction of modest but adequate housing, and to associate with other groups functioning with purposes consistent with those listed below, namely:

- a. to work with economically disadvantaged people to help them create a better human habitat in which to live and work.
- b. to cooperate with other charitable organizations, through grants and otherwise, which are working to develop a better habitat for economically disadvantaged people.
- c. to communicate our faith in God by means of our words and actions as we work in partnership with God and people building homes

and community.

d. to enable an expanding number of persons from all walks of life to participate in this ministry. (Dept. Ex. No. 2)

6. The applicant is exempt from the payment of federal Income Taxes pursuant to a group determination by the Internal Revenue Service that the applicant qualifies as the type of organization described in Section 501(c)(3) of the Internal Revenue Code. (Dept. Ex. No. 2)

7. The applicant acquired Parcel Index No. 22-02.0-305-015 by a quitclaim deed on December 24, 1996. The property is commonly known as 1900 East Cornell Street, Springfield, Illinois. In 1998, the property was vacant land. (Dept. Ex. No. 2)

8. The applicant also acquired Parcel Index No. 22-02.0-305-014 by a quitclaim deed on December 24, 1996. The property is commonly known as 1828 East Cornell Street, Springfield, Illinois. In 1998, the property was a vacant lot. (Dept. Ex. No. 3)

9. The applicant acquired Parcel Index No. 14-27.0-177-046 on December 29, 1995, by a warranty deed. The property was donated to the applicant as a gift. The property is commonly known as 801 North 7th Street, Springfield, Illinois. When the applicant acquired the property it contained a one-story commercial building that was vacant. It had been used as a medical office. From 1996 until February 1998 the applicant used the parcel as a construction site for a house on an adjoining parcel, for storage of construction materials, storage of materials for applicant's fundraisers, and as an office. The applicant moved out of the building on February 2, 1998. (Dept. Ex. No. 4; Tr. pp. 16-19)

10. On June 11, 1998, the applicant obtained a demolition permit for "interior gutting single family residence" at 801 N. 7th Street. Construction was started on or about June 13, 1998, and substantially completed by mid-September. On July 15, 1998, the applicant was issued a building permit to "remodel interior, & new truss roof, SFR house #38" at 801 North 7th Street. Applicant's construction, remodeling, and utility costs for job #38 totaled \$65,270.99 including the cost of the land and insurance. The applicant knew the property was worth about \$50,000.00 and did approximately \$20,000.00 to \$25,000.00 worth of rehabilitation. On August

16, 1998, the applicant sold the property and home by a lease with the option to purchase to a family that qualified for applicant's program. The mortgage had not been signed at the time of the hearing. The family was delinquent on the lease payments. (Dept. Ex. No. 4; Tr. pp. 16-19, 21)

11. The applicant acquired Parcel Index No. 14-26.0-301-013 on December 30, 1995, by a warranty deed. The property was donated to the applicant as a gift. The property is commonly known as 1515 East Miller, Springfield, Illinois. In 1998 the property was a vacant lot. (Dept. Ex. No. 5)

12. On July 22, 1996, the applicant acquired Parcel Index No. 22-02.0-257-017 by a warranty deed. The property is commonly known as 1828 Perkins Court, Springfield, Illinois. In 1998 the property was vacant land. (Dept. Ex. No. 6)

13. Parcel Index No. 22-02.0-257-018 was acquired by the applicant on July 22, 1996 by a warranty deed. The property is commonly known as 1824 Perkins Court, Springfield, Illinois. The property was a vacant lot in 1998. (Dept. Ex. No. 7)

14. The applicant acquired Parcel Index No. 22-02.0-257-019 on July 22, 1996, by a warranty deed. The property is commonly known as 1820 Perkins Court, Springfield, Illinois. In 1998 the property was vacant land. (Dept. Ex. No. 8)

15. The applicant also acquired Parcel Index No. 22-02.0-257-020 on July 22, 1996, by a warranty deed. The property is commonly known as 1816 Perkins Court. The property was a vacant lot in 1998. (Dept. Ex. No. 9)

16. Parcel Index No. 22-02.0-257-026 was acquired by the applicant on July 22, 1996 by a warranty deed. The property is commonly known as 1800 Perkins Court, Springfield, Illinois. In 1998 the property was vacant land. (Dept. Ex. No. 10)

17. On October 21, 1994, the applicant acquired Parcel Index No. 14-27.0-254-020 by a warranty deed. The property is commonly known as 1011 North 12th Street, Springfield, Illinois. The property contained an abandoned house and was vacant in 1998. (Dept. Ex. No. 11)

18. None of the parcels at issue required zoning changes. In 1998 the applicant cleaned up the vacant lots and mowed them. (Tr. p. 28)

19. I take administrative notice that the Department granted the applicant a partial exemption for 1998 in Docket No. 98-84-46, which concerns Parcel Index No. 14-27.0-177-046, street address 801 N. 7th.

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 ILCS 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining

whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

The Department granted the applicant a partial exemption pursuant to Docket No. 98-84-46, Parcel Index No. 14-27.0-177-046, address 801 N. 7th Street. Therefore, the Department has determined that the applicant is a charitable organization. The only question before me is whether the applicant used the subject properties for charitable purposes during the 1998 assessment year.

With regard to all the properties other than Parcel Index No. 14-27.0-177-046, street address 801 N. 7th St., the applicant did not use the parcels at all in 1998. They were vacant lots. The Illinois Appellate Court found that a church-owned building, which was not used for any purpose and was boarded up during the taxable years in question, did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983). In addition, the Fifth District Appellate Court held that eighteen vacant lots did not qualify for a property tax exemption in Comp. Train. & Devel. v. Co. of Jackson, 261 Ill.App.3d 37 (5th Dist. 1994).

I n t h e c a s e o f P e o p l e e x . r e l .
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C o u r t r e q u i r e d t h a t t h e a c t u a l
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t h e p r o p e r t y t o b e e x e m p t .

R e g a r d i n g Parcel Index No. 14-27.0-117-046, the 801 N. 7th Street

property, the applicant used it from the time of acquisition until February 2, 1998, for storage and construction projects associated with its charitable purpose. The Appellate Court of Illinois has determined that property owned by a church and used for storage of church records and furniture qualified for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1055 (5th Dist. 1990), *leave to appeal denied*. It is therefore recommended that the property qualify for exemption from January 1, 1998, through February 2, 1998. However, the applicant has failed to establish that Parcel Index No. 14-27.0-117-046 qualifies for exemption for the period of February 2, 1998, through June 11, 1998, or for 35% of the 1998 assessment year. The Department previously determined that the property qualified for exemption from June 11, 1998.

Based upon the foregoing, I find that the applicant has failed to establish that it used the vacant subject parcels for charitable purposes in 1998. I therefore recommend that Sangamon County Parcel Index Nos.: 22-02.0-305-015 located at 1900 E. Cornell; 22-02.0-305-014 address 1828 E. Cornell; 14-26.0-301-013 a/k/a 1515 E. Miller; 22-02.0-257-017, which is 1828 Perkins Court; 22-02.0-257-018 located at 1824 Perkins Court; 22-02.0-257-019, a/k/a 1820 Perkins Court; 22-02.0-257-020, which is 1816 Perkins Court; 22-02.0-257-026, the address of which is 1800 Perkins Court; and 14-27.0-254-020, located at 1011 N. 12th Street, remain on the tax rolls for the entire 1998 taxable year and be assessed to the applicant, the owner thereof.

I also recommend that Parcel Index No. 14-27.0-177-046, address 801 N. 7th Street, be exempt from taxation for 65% of the 1998 assessment year. It is recommended that 35% of Sangamon County Parcel Index No. 14-27.0-177-046 remain on the tax rolls for the 1998 taxable year and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
March 28, 2000

Attachment

<u>Docket #:</u>	<u>Parcel Index #:</u>	<u>Street Address:</u>
98-84-61	22-02.0-305-015	1900 E. Cornell
98-84-44	22-02.0-305-014	1828 E. Cornell
98-84-46	14-27.0-177-046	801 N. 7 th Street
98-84-48	14-26.0-301-013	1515 E. Miller
98-84-50	22-02.0-257-017	1828 Perkins Court
98-84-51	22-02.0-257-018	1824 Perkins Court
98-84-52	22-02.0-257-019	1820 Perkins Court
98-84-53	22-02.0-257-020	1816 Perkins Court
98-84-54	22-02.0-257-026	1800 Perkins Court
98-84-56	14-27.0-254-020	1011 N. 12 th Street

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